

Request for Proposal

732-8911

BEACH EQUIPMENT RENTAL CONCESSION

***Opens: August 15, 2003
2:00 p.m.***



Venice of America

City of Fort Lauderdale

***Issued for Parks and Recreation
By the Procurement & Materials Management Division***

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REQUEST FOR PROPOSALS
RFP NO. 732-8911

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PART I - INTRODUCTION/INFORMATION

01. PURPOSE

The City of Fort Lauderdale, Florida (City) is seeking proposals from qualified firms, hereinafter referred to as the Contractor, to provide a beach equipment rental concession for the City's Parks & Recreation Department, in accordance with the terms, conditions, and specifications contained in this Request for Proposals (RFP). It is the intent of the City to award a single contract to the first ranked proposer responding to this RFP.

02. INFORMATION OR CLARIFICATION

For information concerning procedures for responding to this RFP, contact Procurement Specialist Richard Ewell at (954) 828-5138. For information concerning the technical specifications or scope of services, contact Stu Marvin at (954) 828-4581. Such contact shall be for clarification purposes only. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum.

It is preferred that all questions be submitted in writing to the Purchasing Division, 100 North Andrews Avenue, Room 619, Fort Lauderdale, FL, 33301, attn: Richard Ewell. To facilitate prompt receipt of questions, they can be sent via FAX to (954) 828-5650 attn: Richard Ewell. Questions of a material nature must be received prior to the cut-off date specified in the RFP Schedule. Proposers please note: No part of your proposal can be submitted via FAX. The entire proposal must be submitted in accordance with the Instructions To Proposers contained in this RFP.

03. PRE-PROPOSAL CONFERENCE

There will be a pre-proposal conference on the date and time specified in the Schedule Section of the RFP.

It will be the sole responsibility of the proposer to inspect the City's facilities and systems prior to submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the proposer has familiarized himself with the nature and extent of the work, and the equipment, materials, and labor required.

It is strongly suggested that all proposers attend the pre-proposal conference.

04. ELIGIBILITY

To be eligible to respond to this RFP, the proposing firm or principals must demonstrate that they, or the principals assigned to the project, have successfully provided services similar to those specified in the Scope of Services section of this RFP or have the managerial and financial ability to successfully start such a concession by the required date.

PART II - RFP SCHEDULE

Release RFP	06/16/03
Pre Proposal Conference, Parks and Recreation Conference Room, 1350 W. Broward Blvd., Fort Lauderdale, FL. 10:00 AM	07/15/03
Last Date for Receipt of Questions of a Material Nature	08/01/03
Addendum Release (If required)	08/06/03
PROPOSAL DUE (Prior to 2:00 PM)	08/15/03

PART III - SPECIAL CONDITIONS

01. GENERAL CONDITIONS

RFP General Conditions Form G-107 Rev. 07/01 (GC) are included and made a part of this RFP as pages 24 - 28.

02. VARIANCES

While the City allows Contractors to take variances to the RFP terms, conditions, and specifications, the number and extent of variances taken will be considered in determining proposal responsiveness and in allocating proposal evaluation points. See Section 1.06 of GC.

03. PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

04. NEWS RELEASES/PUBLICITY

News releases, publicity releases, or advertisements relating to this contract or the tasks or projects associated with the project shall not be made without prior City approval.

05. RFP DOCUMENTS

The Contractor shall examine this RFP carefully. Ignorance of the requirements will not relieve the Contractor from liability and obligations under the Contract.

06. PROPOSERS' COSTS

The City shall not be liable for any costs incurred by proposers in responding to this RFP.

07. RULES AND PROPOSALS

The signer of the proposal must declare that the only person(s), company or parties interested in the proposal as principals are named therein; that the proposal is made without collusion with any other person(s), company or parties submitting a proposal; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the proposal has full authority to bind the principal proposer.

08. CONFIDENTIAL INFORMATION

Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with all Proposer's response shall be deemed to be public records subject to public inspection upon award, recommendation for award or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. Therefore, if the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer must in his or her response specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.

09. APPROVED EQUAL OR ALTERNATE PRODUCT PROPOSALS

The Technical Specifications contained in this RFP are to be used as a reference only and are not to be considered of a proprietary nature. These specifications represent a level of quality and features which are desired by the City of Fort Lauderdale. The City is receptive to any product which would be considered by qualified City personnel as an approved equal.

The proposer must state clearly in his proposal pages any variance to the specifications. If proposing an approved equal or alternate product, it will be the proposer's responsibility to provide adequate information in his proposal to enable the City to ensure that the proposal meets the required criteria. If adequate information is not submitted with the proposal, it may be rejected.

The City of Fort Lauderdale will be the sole judge in determining if the product proposed qualifies as approved equal. The City reserves the right to award to that proposal which will best serve the interest of the City as determined by the City. The City further reserves the right to waive minor variations to specifications and in the bidding process.

10. CONTRACT PERIOD

The initial contract term shall commence November 1, 2003 or date of award, whichever is later, and shall expire three (3) years from that date. The City reserves the right to extend the contract for two (2) additional one (1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City.

The annual permit fee and rental rates for any extension term(s) shall be subject to negotiation between the parties. If the Concessionaire desires an extension, the Concessionaire shall notify the City in writing no later than 120 days prior to the expiration of the contract term then in effect. The notice shall contain the length of the proposed extension, the proposed rental rates, new or additional equipment, and proposed annual permit fee. The City shall notify the Concessionaire of its decision within 30 days.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Purchasing Manager. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the City.

11. NO EXCLUSIVE CONTRACT/ADDITIONAL SERVICES

Contractor agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services at its sole option.

While this contract is for services provided to the City's Parks & Recreation Department, the City may require similar work for other City departments. Contractor agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Contractor.

12. DELETION OR MODIFICATION OF SERVICES

The City reserves the right to delete any portion of this Contract at any time without cause, and if such right is exercised by the City, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished on the portion of the Contract to be deleted, the Contractor shall be paid for the deleted portion on the basis of the estimated percentage of completion of such portion.

If the Contractor and the City agree on modifications or revisions to the task elements, after the City has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Contractor will submit a revised budget to the City for approval prior to proceeding with the work.

13. ADDITIONAL ITEMS

The City may require additional items of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items, and shall provide the City prices on such additional items based upon a formula or method which is the same or similar to that used in establishing the prices in his proposal. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those items from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

14. WARRANTIES OF USAGE

Any estimated quantities listed are for information and tabulation purposes only. No warranty or guarantee of quantities needed is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.

15. SUBSTITUTION OF PERSONNEL

It is the intention of the City that the Contractor's personnel proposed for the contract will be available for the initial contract term. In the event the Contractor wishes to substitute personnel, he shall propose personnel of equal or higher qualifications and all replacement personnel are subject to City approval. In the event substitute personnel are not satisfactory to the City and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel the Contract for cause. See Section 5.09 General Conditions.

16. INDEPENDENT CONTRACTOR

The Contractor is an independent contractor under this Agreement. Personal services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personal policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Contract shall be those of the Contractor.

17. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

- A. the non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- B. the excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- C. no obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and
- D. the non performing party uses its best efforts to remedy its inability to perform.

Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

18. INSURANCE

The Contractor shall carry at all times the following insurance coverage:

Worker's Compensation & Employer's Liability Insurance

Limits: Worker's Compensation - Statutory
Employer's Liability \$100,000

Comprehensive General Liability Insurance

Limits: Combined single Limit Bodily Injury/Property Damage - \$1,000,000

Automobile Liability Insurance

Limits: Bodily Injury - \$250,000 each person
\$500,000 each occurrence
Property Damage - \$100,000 each occurrence

The City shall be named as an additional insured. Original Certificates of insurance must be submitted to the Purchasing Division and be approved by the City's Risk Manager prior to commencement of any work.

19. LOBBYING ACTIVITIES

ALL BIDDERS/PROPOSERS PLEASE NOTE: Any bidder or proposer submitting a response to this solicitation must comply, if applicable, with City of Fort Lauderdale Ordinance No. C-00-27, Lobbying Activities. Copies of Ordinance No. C-00-27 may be obtained from the City Clerk's Office on the 7th Floor of City Hall, 100 N. Andrews Avenue, Fort Lauderdale, Florida. The ordinance may also be viewed on the City's website at <http://ci.ftlaud.fl.us/documents/index.htm>.

20. PERMITS, LICENSES

The Concessionaire agrees to obtain and pay for all permits and licenses necessary for the conduct of the business and agrees to comply with all laws governing the responsibility of the employer with respect to persons employed by the Concessionaire. The Concessionaire shall also be solely responsible for payment of any taxes levied on the concession operation. In addition, the Concessionaire shall comply with all rules, regulations and laws, including permit requirements of Ordinance C-93-26, of the City of Fort Lauderdale, Broward County, State of Florida and the U.S. Government, now in force or hereafter to be adopted.

21. CONCESSION FEE PAYMENTS

The Contractor shall pay to the City a fixed annual concession rental fee quarterly in advance, based on that amount submitted in the Proposal Section of this RFP and accepted by the City. The initial quarterly payment shall be paid within seven (7) working days after notification by the City, of its award of this contract. All payments shall be submitted to the Parks and Recreation Department's designee.

All payments shall be presented, in the form of a cashier's check or certified check, payable to the City of Fort Lauderdale.

The failure of the first ranked proposer to comply with the payment schedule as stated will result in the disqualification of this proposer and award of contract to the second ranked proposer.

All payments are due prior to the commencement of each quarter. Such payment shall be for that quarters concession fee as proposed and accepted by the City. If the payment is not received within thirty (30) days of payment deadline, the City may take possession of the Concessionaires assets on City property, and cancel this contract.

22. SALES TAX

It is understood that the applicable Florida State Sales Tax, payable on those concession fees due the City, shall be paid directly to the State of Florida by the Concessionaire. It is the intent of the City that it is to receive the rental amount net, free and clear of all costs and charges arising from, or relating to, said demised premises and the annual rental fee.

Florida State Sales Tax is also payable on all revenues gained as a result of gross sales on the rental fees for watercraft. The sales tax must be submitted to the State of Florida, is understood to mean all income collected or accrued, derived by the Contractor under the privileges granted by the Agreement entered into with the City, excluding amounts of any State sales tax, or other tax, collected by the Concessionaire from customers and required by law to be remitted to the taxing authority.

23. ANNUAL REPORTS

The Concessionaire shall submit an annual CPA Certified Statement of Gross Receipts to the City. Such certified statement will include an opinion by the CPA as to the accuracy of the Concessionaires Gross Receipts. The period covered by this CPA Certified Statement of Gross Receipts may coincide with the Concessionaires fiscal year and will be submitted to the City within sixty (60) days after the end of each twelve month fiscal year.

24. RECORDS

The Contractor shall maintain during the term of the contract, all books of account, receipts, invoices, reports, and records in accordance with Generally Accepted Accounting Principles and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. Recommendations for changes, additions, or deletions by the City's Internal Auditor must be complied with by the Contractor. The City's Internal Auditor or other representative authorized by the City, must be permitted, during normal business hours, to audit and examine the books of account, reports, and records relating to this contract.

The Contractor shall maintain and make available, in Broward County, Florida, such records and files for the duration of the contract and retain them for a period of two (2) years beyond the last day of the contract term.

25. ONE CONTRACTOR/MINIMUM FEES

The City intends to award a single contract for the six specified areas. While the minimum annual concession fees listed below are by area, the City will only consider proposals from proposers who will provide equipment rental in all areas at annual concession fees equal to or above the minimum requirement.

The City requires a minimum annual concession fee for the first contract year as follows:

Area A -	\$24,600.00
Area B -	\$24,600.00
Area C -	\$24,800.00
Area D -	\$24,800.00
Bahia-Mar South	\$28,300.00
Bahia-Mar North	\$21,300.00

The minimum acceptable proposal, for the first contract year, for all the areas above is \$148,400.00. The current contract holder is paying annually \$155,458.87 plus tax.

20. DEFAULT

- (1) If Concessionaire abandons or vacates the premises prior to the expiration of the term hereof, or
- (2) If Concessionaire fails to make the payments as set forth herein and said payment is not made within 15 days after written notice is given to Concessionaire, or
- (3) If Concessionaire fails to perform in accordance with any of the other terms and conditions herein contained, and such default is not cured within fourteen days after written notice is given to Concessionaire, then City, at City's option and without further notice or demand to Concessionaire, may enter into possession of the premises and all improvements thereon and remove all persons therefrom and may either take possession of all furniture, equipment, and other personal property of Concessionaire found on the premises or remove such property or any part of it and store it at Concessionaires expense. City may then either terminate this agreement or re-let the premises without prejudice to City's lawful rights and remedies against Concessionaire. In the event City elects to re-let premises for such rent and upon such terms as City may be able to obtain, Concessionaire shall continue to pay any difference between the rent obtained by such re-letting and the rent due hereunder.

21. BANKRUPTCY OR INSOLVENCY

If Concessionaire is adjudicated a bankrupt or makes an assignment for the benefit of creditors, or if the leasehold interest is sold under a legal order, or judgment, City shall have the right to immediately terminate this contract and re-enter the premises without notice or demand.

22. INSPECTION OF PREMISES

For the purposes of inspection, City reserves the right to enter upon any part of the premises at any time during the period the business is to be open under the terms of this lease.

23. NOTICES

All notices and rental payments shall be sent to the parties at the following addresses:

City: City of Fort Lauderdale
City Manager
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

Concessionaire:

City and Concessionaire may change such addresses at any time upon giving the other party written notification.

All notices under this lease must be in writing and shall be deemed to be served when delivered to the address of the addressee. All notices served by mail shall be registered mail, return-receipt requested.

Concessionaire may designate additional persons for notification of default.

24. ATTORNEY FEES

Concessionaire agrees to pay the cost of collection and reasonable attorney fees on any part of said payment that may be collected by suit or by attorney after the same is past due. In the event of any other litigation the prevailing party shall be entitled to collect attorneys fees and court costs from the losing party.

25. SIGNS

No signs whatsoever, including advertising signs, shall be erected or permitted upon the premises until the plans have first been submitted to the City in accordance with all Federal, State and City laws, statutes and ordinances and approval received in writing.

PART IV - TECHNICAL SPECIFICATIONS/SCOPE OF SERVICES

01. GENERAL INFORMATION/INTENT

It is the intent of this RFP to award a single contract to provide rental equipment, as specified in this RFP, for the Fort Lauderdale public beaches. While the City will evaluate all responsive proposals, the City prefers owner operated firms for this concession.

02. OPERATING REGULATIONS

All City, County and State laws and regulations relating to the operational use of the City's beachfront areas shall be adhered to by the Concessionaire, his representatives and employees. This shall relate to laws currently in force and those adopted hereafter.

The security for all property, equipment and supplies owned and provided by the Concessionaire, shall remain the responsibility of the Contractor. Costs relating to the repair or replacement of such items, stolen, lost or damaged, shall be at the expense of the Contractor.

The Concessionaire will be responsible for all damage to City property or the City beachfront caused by the Concessionaire or his agents. Any such damage that may occur shall be promptly corrected at the expense of the Contractor.

The Concessionaire will conduct his operation and provide contracted services, in such a manner as to maintain reasonable quiet and minimize disturbance to the general public.

Any repairs, cleaning or other maintenance as required to maintain a clean and safe working environment, shall be provided on a continuous and immediate schedule. The Concession operation must be maintained as to provide an aesthetically pleasing appearance and not be detrimental to the immediate surroundings.

03. PARKING REQUIREMENTS

No parking spaces will be provided by the City. Concessionaire and his customers shall utilize those parking facilities available to the general public.

04. USE OF CONCESSION AREAS

The Concessionaire shall not use the concession area for any other purpose than the renting of beach equipment, and he shall so conduct his business as to render a service to the public in a dignified manner. No pressure, coercion, persuasion, or hawking shall be done by the Concessionaire or his attendant in an attempt to influence the public to use his service.

05. LOCATION OF SERVICES

For the purpose of defining and awarding the concession contract for cabana service to the public, the Fort Lauderdale beach is divided into six areas. The areas are described as follows:

Area A: Area with southern boundary line being the north boundary line of government lot 3, section 12, township 50 south, range 42 east, Broward County, Florida, and the

northern boundary line being the south right-of-way line of Poinsettia Street extended to the waters of the Atlantic Ocean.

Area B: Area with southern boundary line being the north right-of-way line of Poinsettia Street extended to the waters of Atlantic Ocean, and northern boundary line being the south right-of-way line of Valencia Street extended to the waters of the Atlantic Ocean.

Area C: Area with southern boundary line being the north right-of-way line of Valencia Street extended to Atlantic Ocean, and northern boundary line being the south right-of-way of Rio Mar Street in the subdivision of Birch Ocean Front extended to the waters of the Atlantic Ocean.

Area D: Area with southern boundary line being the northern right-of-way line of Rio Mar Street in the subdivision of Birch Ocean Front extended to the waters of the Atlantic Ocean, and northern boundary line being the north of right-of-way line of the subdivision of Las Olas by the Sea extension, extended to the waters of the Atlantic Ocean (excluding 400' at Birch Park)

Bahia-Mar South: A portion of parcel 39 of Bahia-Mar (less area used for parking and roadway) according to the plat thereof recorded in plat book 35, page 39, of the public records of Broward County, Florida. More specifically 30' west of high water mark and 10' from Yankee Clipper.

Bahia-Mar North: A portion of parcels 36 and 37, Bahia-Mar, according to the plat thereof recorded plat book 35 page 39 of the public records of Broward County, more particularly described as follows: That portion of said parcel 37 lying north of a line 215' north of the center line extended of the pedestrian overpass across State Road A-1-A (Seabreeze Blvd.) at the entrance of the Bahia-Mar shopping area and east of the concrete wall along the easterly edge of the South Beach parking lot and that portion of said parcel 36 lying south of a line 490' north of the center line extended of the said pedestrian overpass and east of the said concrete wall.

Maps of the above areas can be obtained by calling Stu Marvin at 954-828-4581.

06. LOCATION OF EQUIPMENT

The following will serve as a guideline:

Area's A, B, C and D: Equipment may be placed in these areas 20' from the eastern most boundary of Atlantic Blvd., but not to exceed 50' from the eastern most boundary, with a maximum of two rows of cabanas being permitted.

Bahia-Mar Beach (North and South): Equipment shall not be placed or installed closer than 150' from the high water mark of the Atlantic Ocean. The area between the waters of the Atlantic Ocean and 150' from the high water mark shall be for the use of the public in general. No equipment may be placed in the picnic area.

At all times cabanas shall be placed so that there shall be a clearance of 10' – 12' between each cabana on all sides in all the above mentioned beach areas. The public in general shall at all times have the free use of the space allocated to the public in front of the concessionaire. The concessionaire shall not place his equipment on Atlantic Blvd. So as to interfere with the

parking of cars in the parking area and shall leave a corridor of 30' from Atlantic Blvd. eastward at each street intersection for the use of the public as convenient ingress and egress to the atlantic area. A 12' minimum corridor must exist between A-1-A and the first row of cabanas, so as not to interfere or hinder the safe operation of the Beach Patrol emergency vehicles. The City has the right to determine the specific location of equipment within the defined service area.

07. OPERATION SCHEDULE

During the term of this contract, the facility shall be open and properly staffed 7 days per week, on a 52 week per year schedule, with appropriate hours to serve the beach patrons and the general public. Exceptions shall only be considered when inclement weather conditions do not warrant the operation of this concession service or with an advance request for such change and approval by an authorized City representative.

08. EQUIPMENT

Beach equipment as referred herein shall mean chairs, umbrellas, windbreakers, dugouts and related equipment generally and commonly used by persons using public beaches. The Concessionaire shall not be authorized to rent any equipment which is not scheduled in his proposal and covered by his insurance policy furnished to the City, unless prior to such rental, the concessionaire shall have furnished an additional list of equipment to the Contract Administrator and receive approval from the City in writing.

The Concessionaire shall be allowed to sell nationally advertised brands of suntan lotion. However, that applicable concessionaire shall not have the right to advertise or offer the availability of such suntan lotion and such items shall be made available only upon request and at a price not to exceed the prevailing retail price in the beach area.

All rental equipment shall be inspected on a schedule as is necessary to insure the sound mechanical and working condition. Such equipment shall not be rented should defects or other such conditions be found, until such time as noted defects are corrected.

The proposer must provide and maintain at its own cost and term expense, all equipment required to operate the concession. In the event of loss, stolen or damaged equipment or facilities, required repairs, replacement of equipment, shall be at the expense of the Contractor.

09. ADVERTISING

The Concessionaire shall not display any signs or advertising matter, except a list of prices charged, and a pennant at locations specified by the City not larger than 12" wide and 24" long, which shall show the name of the operator.

10. RENTAL RATES

Concession services shall be consistent with those charges for similar services and merchandise in the area of recreational facilities and tourist attractions in the Broward County area.

The rates and charges for rental of such equipment must be provided in the proposal section

of this RFP. Such rates must be reviewed and approved by the City prior to the commencement of any contract. Such stated rates and charges shall be consistent throughout the term of this contract.

Any requests for modification and changes in such rates, must be presented to the City, with a minimum of 30 days prior to the desired date of rate change. Such change requests must be in writing and directed to the City Contract Administrator. The City shall review and accept, refuse or modify such rate change requests. The City shall have the last and final decision relating to any such change requests.

11. EQUIPMENT STORAGE

Beach equipment as defined herein may remain on the beach, and there may be constructed a storage building in each concession area 8' X 12' floor size, all of which structures shall be uniform shape, paint, design and constructed so as to be dismantled in the event of a hurricane. However, at the discretion of the City, buildings may be required to be removed when not in use. The buildings shall bear no signs, except the name of the Contractor either on a small life saving ring or on a small pennant attached to said building. Location of said building is subject to the approval of the City. All storage sheds and paint colors must be approved by the City prior to installation.

12. APPEARANCE OF PREMISES

The successful Contractor shall be responsible to have a neat, clean and orderly operation at all times and be responsible for maintaining that condition during operating hours within an area of 100' of the concession site.

The Concessionaire shall provide at his own expense all trash and rubbish receptacles within the confines of his area in a quantity adequate for his own use and that of the public. The removal and disposal of this trash and rubbish, shall be the responsibility of, and at the expense of, the City..

13. EMPLOYEE QUALIFICATIONS AND APPEARANCE

The Concessionaire shall employ workers to service this operation who are literate, neat, clean, well groomed and courteous. An experienced manager shall be provided to oversee the daily operation of this concession and with the full authority to direct the operation and immediately take all corrective action required to correct erroneous procedures and insure complete and continuous compliance with the fees charged, specifications contained herein.

14. BEACH REGULATIONS

The Contractor shall abide by all rules and regulations established and posted at the beach and intended for use by the general public.

15. SPECIAL EVENTS

The City will hold sponsored and cosponsored events and activities on the beach from time to time. During such events, the Contractor may be allowed to continue operations or be assigned a temporary location elsewhere within close proximity of the original assigned site. During the event, the Contractor has the option of operating his equipment from the temporary

site or stopping operations until the event is over. The City reserves the right to allow other rental of Concessions to operate upon the original assigned site or in close proximity to that site during special events as may be approved by the City.

PART V - CONSIDERATION FOR AWARD/AWARD PROCEDURES

The award of the contract will be based on certain objective and subjective considerations listed below:

1. Understanding of the overall needs of the City as presented in the proposed operational plan, proposed equipment, marketing plan and proposed rental prices.

Maximum points available are 30.

2. Experience, qualifications, and past performance of the proposing firm including persons proposed for the operation of the concession, facilities and financial resources.

Maximum points available are 30.

3. Concession fees proposed for initial contract term.

Maximum points available are 40.

Total Points Available are 100 points.

Evaluation of proposals will be conducted by an evaluation committee of qualified City Staff, or other persons selected by the City. It will be a two step process. In step one the committee will evaluate all responsive proposals based upon the information and references contained in the proposals as submitted. The committee will score and rank all responsive proposals and determine a minimum of three (3), if more than three (3) proposals are responsive, to be finalists for further consideration. In the event there are less than three (3) responsive proposals, the committee will give further consideration to all responsive proposals received. The committee will then conduct discussions, for clarification purposes only, with the finalists and re-score and re-rank the finalists proposals. The first ranked proposer resulting from this process will be recommended to the Fort Lauderdale City Commission for award.

Evaluation of proposals will be conducted by an evaluation committee of qualified City Staff, or other persons selected by the City. Proposers or Finalists may be required to provide an oral presentation by appearing before then Evaluation Committee or by conference telephone call for clarification purposes only.

Information and references submitted will be considered in the award.

The City may require visits to customer installations or demonstrations of product by proposers as part of the evaluation process.

The City may require additional information and Proposers agree to furnish such information. The City reserves the right to award the contract to that Proposer who will best serve the interest of the City. The City reserves the right, based upon it's deliberations and in it's opinion, to accept or reject any or all proposals. The City also reserves the right to waive minor irregularities or variations to the specifications and in the bidding process.

PART VI - REQUIREMENTS OF THE PROPOSAL

All proposals must be submitted as specified on the proposal pages which follow. Any attachments must be clearly identified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If publications are supplied by a proposer to respond to a requirement, the response should include reference to the document number and page number. This will provide a quick reference for the evaluators. Proposals not providing this reference will be considered to have no reference material included in the additional documents.

All proposals must be submitted in a sealed package with the RFP number, due and open date, and RFP title clearly marked on the outside. If more than one package is submitted they should be marked 1 of 2, etc.

All proposals must be received in the Purchasing Division, Room 619, 6th floor, City Hall, 100 North Andrews Avenue, Fort Lauderdale, Florida, 33301 prior to 2:00 pm on the date specified in the SCHEDULE Section of this RFP.

The proposal shall be signed by a representative who is authorized to contractually bind the Contractor.

PROPOSERS MUST SUBMIT AN IDENTIFIED ORIGINAL COPY PLUS FIVE (5) COPIES OF THE PROPOSAL PAGES INCLUDING ANY ATTACHMENTS

THE ABOVE REQUIREMENT TOTALS SIX (6) COPIES OF YOUR PROPOSAL

PROPOSAL PAGES ARE AS FOLLOWS:

Proposal Pages - Signature Page

Part I Proposal Pages - Cost Information

Part II Proposal Pages - Technical Information

Part III Questionnaire

Attachments to your Proposal

PROPOSAL SIGNATURE PAGE

TO: The City of Fort Lauderdale

The below signed hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the RFP. I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this proposal.

Proposal submitted by:

Name (printed)_____Title:

Company: (Legal Registered)

Address:

City_____State:_____Zip

Telephone No._____ FAX No. _____

Signature:_____Date:

Does your firm qualify for MBE or WBE status In accordance with Section 1.08 of General Conditions? _____ MBE _____ WBE _____

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in his proposal:

<u>Addendum No.</u>	<u>Date Issued</u>
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VARIANCES: State any variations to specifications, terms and conditions in the space provided below or reference in the space provided below all variances contained on other pages of RFP, attachments or proposal pages. No variations or exceptions by the Proposer will be deemed to be part of the proposal submitted unless such variation or exception is listed and contained within the proposal documents and referenced in the space provided below. If no statement is contained in the below space, it is hereby implied that your proposal complies with the full scope of this RFP.

Variances:

PROPOSAL PAGES - PART I: COST INFORMATION
732-8911

Annual concession fee payable to the City, to be paid in equal quarterly payments in advance:

Annual concession fee first contract year:

Area A:	\$_____	(minimum acceptable \$24,600)
Area B:	\$_____	(minimum acceptable \$24,600)
Area C:	\$_____	(minimum acceptable \$24,800)
Area D:	\$_____	(minimum acceptable \$24,800)
Bahia-Mar South:	\$_____	(minimum acceptable \$28,300)
Bahia-Mar North:	\$_____	(minimum acceptable \$21,300)
Total:	\$_____	(minimum acceptable \$148,400)

Annual concession fee second contract year:

Area A:	\$_____	(minimum first year plus 5%)
Area B:	\$_____	(minimum first year plus 5%)
Area C:	\$_____	(minimum first year plus 5%)
Area D:	\$_____	(minimum first year plus 5%)
Bahia-Mar South:	\$_____	(minimum first year plus 5%)
Bahia-Mar North:	\$_____	(minimum first year plus 5%)
Total:	\$_____	(minimum first year plus 5%)

Annual concession fee third contract year:

Area A: \$_____ (minimum second year plus 5%)

Area B: \$_____ (minimum second year plus 5%)

Area C: \$_____ (minimum second year plus 5%)

Area D: \$_____ (minimum second year plus 5%)

Bahia-Mar South: \$_____ (minimum second year plus 5%)

Bahia-Mar North: \$_____ (minimum second year plus 5%)

Total: \$_____ (minimum second year plus 5%)

Grand Total (all areas for initial 3 year contract term): \$_____

All subsequent renewal terms shall require a minimum of 5% increase in annual concession fee for each area.

PROPOSAL PAGES PART II TECHNICAL PROPOSAL

The following issues should be fully responded to in your proposal in concise narrative form. Additional sheets should be used, but they should reference each issue and be presented in the same order.

- I. Understanding of the City's needs for the concession and your overall approach to those needs.
- II. Your proposed operational plan, to include:
 - A. Central theme of the concession.
 - B. Concession marketing plans.
 - C. Days and hours of operation.
 - D. Management plans and staffing levels.
 - E. Plans for maintenance, waste collection and security.
 - F. Any other information you feel will assist the City in evaluating your proposal.
- III. Provide in your proposal the type and quantity of equipment that you plan to provide for rental. Photos or brochures of the equipment will be helpful in evaluation. Describe or provide a layout or plan of how you propose to place the equipment in each area.
- IV. List your proposed rental rates for the initial contract year. Describe equipment and list proposed rates for an hour, more than an hour, half day and full day, etc.

PROPOSAL PAGES PART III QUESTIONNAIRE

1. How many calendar days from award of contract would you need prior to initiating operations?
_____ days
2. Prior Experience:

Number of years experience the proposer has had in providing similar services:

_____ years
3. List those persons who will have a management or senior position working with the City if you are awarded the contract. List name, title or position and duties. A resume or summary of experience and qualifications must accompany your proposal.
4. List clients for whom you have provided similar services in the last three years. Provide agency name, address, telephone number, contact person, and date service was provided. If services provided differs from the one presented in your proposal, please delineate such differences.
5. List those City of Fort Lauderdale agencies with which the proposer has had contracts or agreements during the past three (3) years:
6. Lawsuits (any) pending or completed involving the corporation, partnership or individuals with more than ten percent (10%) interest:
 - a. List all pending lawsuits which are concerned directly with the staff or part of your organization proposed for the contract:
 - b. List all judgments from lawsuits in the last 5 years which are concerned directly with the staff or part of your organization proposed for the contract.
7. Attach a Balance Sheet and Statement of Profit and Loss of the proposing firm from the preceding calendar or fiscal year, certified by either an appropriate Corporate Officer, or an independent Certified Public Accountant. If proposing firm is a privately held corporation, providing such records, for City review, at a time and place convenient to the City, will satisfy this requirement. If the proposing firm is a newly formed corporate entity, the City may require a personal guarantee of performance by principals or stockholders.

The proposer understands that the information contained in these Proposal Pages is to be relied upon by the City in awarding the proposed Agreement, and such information is warranted by the proposer to be true. The proposer agrees to furnish such additional information, prior to acceptance of any proposal, relating to the qualifications of the proposer, as may be required by the City.

PROPOSER PLEASE INSURE THAT YOU HAVE SIGNED THE SIGNATURE PAGE OF THESE PROPOSAL PAGES. OMISSION OF A SIGNATURE ON THAT PAGE WILL RESULT IN REJECTION OF YOUR PROPOSAL

COMPLETE AND RETURN THE REQUIRED NUMBER OF PROPOSAL PAGES AND ATTACHMENTS.

PROPOSAL IDENTIFICATION: Please indicate on the face of your sealed proposal package the following:

RFP NO. 732-8911

OPENS 08/15/03

Beach Equip

GENERAL CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Division of Procurement & Materials Management. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

- 1.01 BIDDER ADDRESS:** The City maintains automated vendor mailing lists for each specific Commodity Class Item. Invitation to Bid (ITB'S) will be mailed first to a selection of Bidders who have fully registered on our system. Requests will be mailed to unregistered Bidders within a reasonable time frame for that bid only. Neither the mailing of one ITB to the vendor, nor a bid in return, will register a vendor on our system. If you wish purchase orders sent to a different address, please so indicate. If you wish payments sent to a different address, please so indicate on your invoice.
- 1.02 DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.
- 1.03 PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 30 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.
- 1.04 TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.
- 1.05 BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that his bid and the prices quoted in his bid will be firm for acceptance by the City for a period of ninety (90) days from the date of bid opening unless otherwise stated in the ITB.
- 1.06 VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications.

By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.

- 1.07 NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.
- 1.08 MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in its purchasing activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) "A Minority Business" is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term 'Minority Business Enterprise' means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a "Women Owned or Controlled Business is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) "Small Business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than \$1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European decent including Pakistani and East Indian.

HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.

NATIVE AMERICAN, which includes persons whose origins are American Indians, Eskimos, Aleuts, or Native Hawaiians.

ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.09 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and

procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

- 1.09(a) CERTIFICATION BY BROWARD COUNTY, FL:** If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/vendor is claiming minority status in accordance with Section 1.08 of the General Conditions, then said awarded contractor/vendor shall apply for certification by Broward County, Florida, Division of Equal Employment and Small Business Opportunity. Contractor/vendor shall provide documentation of application status, and once approved or disapproved by Broward County, must also provide that documentation to the Purchasing Division of the City of Fort Lauderdale.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

- 2.01 BIDDING DEFINITIONS** The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process:
INVITATION TO BID (ITB) when the City is requesting bids from qualified Bidders.
REQUEST FOR PROPOSALS (RFP) when the City is requesting proposals from qualified Proposers.
BID – a price and terms quote received in response to an ITB.
PROPOSAL – a proposal received in response to an RFP.
BIDDER – Person or firm submitting a Bid.
PROPOSER – Person or firm submitting a Proposal.
RESPONSIVE BIDDER – A person whose bid conforms in all material respects to the terms and conditions included in the ITB.
RESPONSIBLE BIDDER – A person who has the capability in all respects to perform in full the contract requirements, as stated in the ITB, and the integrity and reliability that will assure good faith performance.
FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.
SELLER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.
CONTRACTOR – Successful Bidder or Proposer who is awarded a Purchase Order, award Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City.
CONTRACT – A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction.
CONSULTANT – Successful Bidder or Proposer who is awarded a contract to provide professional services to the City.
The following terms may be used interchangeably by the City: ITB, or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.
- 2.02 SPECIAL CONDITIONS:** Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

- 3.01 SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidder's should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Procurement Office, or other designated area, in the presence of Bidder's, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.
- 3.02 MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.
- 3.03 PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.
- 3.04 TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption number for Federal Excise taxes is 59-74-0111K, and State Sales tax exemption number is 16-03-196479-54C.
- 3.05 WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
- 3.06 APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in his bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in his bid, to enable the City to ensure that

the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.

- 3.07 MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet, or exceed these items, and feels that the technical specifications are overly restrictive, he must notify the Procurement Division immediately. Such notification must be received by the Procurement Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.
- 3.08 MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle him to any relief from the conditions imposed in the contract.
- 3.09 SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.
- 3.10 LIFE CYCLE COSTING:** If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.
- 3.11 BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.
- 3.12 USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest.
- 3.13 QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Manager reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.
- 3.14 BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond, postal money order, cashier's check, or irrevocable letter of credit. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond or irrevocable letter of credit, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 PUBLIC RECORDS:** Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with an ITB response shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. If the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer, must in his or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.
- 3.16 PROHIBITION OF INTEREST:** No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.
- 3.17 RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.
- If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.
- 3.18 LEGAL REQUIREMENTS:** Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives,

or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.

PART IV BONDS AND INSURANCE

- 4.01 PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT:** If a performance bond or irrevocable letter of credit is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond or an Unconditional Irrevocable Letter of Credit payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent. If a Letter of Credit is chosen, it must be in a form acceptable to the City, drawn on a local (Broward, Dade or Palm Beach Counties) bank acceptable to the City and issued in favor of the City of Fort Lauderdale, Florida. If a Bidder wishes to use a non-local bank, he must have prior City approval of the requirements to draw against the Letter of Credit.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond or Irrevocable Letter of Credit is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor.

- 4.02 INSURANCE:** If the Contractor is required to go on to City property to perform work or services as a result of ITB award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions.

The Contractor shall provide to the Purchasing Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an **ADDITIONAL INSURED** and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting his bid, agrees to abide by such modifications.

PART V PURCHASE ORDER AND CONTRACT TERMS:

- 5.01 COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:
- Bidder's name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
 - All City Departments being advised to refrain from doing business with the Bidder.
 - All other remedies in law or equity.
- 5.02 ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.
- 5.03 SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).
- 5.04 ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB he will supply only material or equipment that is 100% asbestos free.
- 5.05 OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, he will, if he has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.06 VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.
- 5.07 INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.
- 5.08 INDEMNITY/HOLD HARMLESS AGREEMENT:** The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Fort Lauderdale and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable Statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

- 5.09 TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.
- 5.10 TERMINATION FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
- 5.11 CANCELLATION FOR UNAPPROPRIATED FUNDS:** The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
- 5.12 RECORDS/AUDIT:** The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. The Contractor agrees to make available to the City's Internal Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract for the duration of the contract and retain them for a minimum period of one (1) year beyond the last day of the contract term.
- 5.13 PERMITS, TAXES, LICENSES:** The successful Contractor shall, at his own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried on under this contract.
- 5.14 LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.15 NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.
- 5.16 UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party to the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:
1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.
 2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
 3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve themselves of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying him for receiving any business from the City for a state period of time.
- If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.
- 5.17 ELIGIBILITY:** If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.
- 5.18 PATENTS AND ROYALTIES:** The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.
- 5.19 ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Manager or selected designee.
- 5.20 LITIGATION VENUE:** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.